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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/901,197	07/09/2001	Akihiro Yasuo	100807-16750 (FUSA 18.803	6390
26304 7590 03/09/2007 KATTEN MUCHIN ROSENMAN LLP 575 MADISON AVENUE NEW YORK, NY 10022-2585			EXAMINER PHUNKULH, BOB A	
			ART UNIT	PAPER NUMBER
			2616	
SHORTENED STATUTORY PERIOD OF RESPONSE		MAIL DATE	DELIVERY MODE	
3 MONTHS		03/09/2007	PAPER	

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

09/901,197

Applicant(s)

YASUO ET AL.

Examiner

Bob A. Phunkulh

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 06 December 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-13 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1, 3, 6, 8, 10, 13 is/are rejected.
- 7) ☒ Claim(s) 2, 4, 5, 7, 9, 11 and 12 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

This communication is in response to applicant's 12/06/2006 amendment(s)/response(s) in the application of **YASUO et al.** for "**TRANSMITTING APPARATUS**" filed 07/09/2001. The amendment/response to the claims have been entered. No claims have been canceled. No claims have been added. Claims 1-13 are now pending.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1 and 3 are rejected under 35 U.S.C. 102(b) as being anticipated by *Goto* (US 5,737,310).

Regarding claim 1, *Goto* discloses a transmitting apparatus in a ring network (see col. 1 lines 5-10) in which a plurality of transmitting apparatuses (nodes) are connected in ring form so as to be capable of transmitting in each of upstream and downstream directions, working and protection channels are assigned to each direction and, when failure occurs in a transmission path, a transmit signal is looped back using the protection channel to effect rescue, said apparatus comprising:

rescue-impossible detection means for detecting that communication between an insert transmitting apparatus that incorporates a packet (SDH frame, see col. 3 lines 1-

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9) , which enters from a lower-order side, into a higher-order signal and transmits the signal to a transmission path, and a drop transmitting apparatus that extracts the packet from the higher-order signal and transmits the packet to another lower-order side, can not be rescued because of transmission-path failure (the combination of switching means, higher-order path misconnection search means, means for instructing the higher-order path squelch means, see col. 1 lines 46 to col. 2 line 13); and

packet-transmission halting means for halting transmission of the packet to the transmission path when communication has become unrescuable (upon recognitions of the trouble in node 2, the switching node 1 and 3 switch and bride control is simultaneously conducted (step 108) –thus the transmission of the packet into the transmission path (the original or primary path) is halted by switching to other path i.e. redundant ring, see col. 6 lines 58-65).

Regarding claim 3, *Goto* discloses when an upstream connection and a downstream connection are set as a pair and the upstream connection becomes unrescuable, said failure reporting means sends a failure notification packet to a packet transmitting source on the lower-order side via the downstream connection of the pair (each node 1 and 3 send APS protocol as shown in figure 10B, 10C, respectively when trouble occur as node 2, see col. 5 lines 53 to col. 6 line 32)

Allowable Subject Matter

Claims 2, 4-13 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

Applicant's arguments filed 12/06/2006 have been fully considered but they are not persuasive.

In response the applicant's argument in page 10-11, Goto discloses upon recognitions of the trouble in node 2, the switching node 1 and 3 switch and bride control is simultaneously conducted (step 108)- thus the transmission of the packet into the transmission path (to the primary path) is halted by switching to other path i.e. redundant ring or secondary path, see col. 6 lines 58-65.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

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the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any response to this action should be mailed to:

The following address mail to be delivered by the United States Postal Service (USPS) only:

Mail Stop _____
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

or faxed to:

(571) 273-8300, (for formal communications intended for entry)

Or:

The following address mail to be delivered by other delivery services (Federal Express (Fed Ex), UPS, DHL, Laser, Action, Purolater, Hand Delivery, etc.) as follow:

U.S. Patent and Trademark Office
220 20th Street South
Customer Window, Mail Stop _____
Crystal Plaza Two, Lobby, Room 1B03
Arlington, VA 22202.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to **Bob A. Phunkulh** whose telephone number is **(571) 272-3083**. The examiner can normally be reached on Monday-Tuesday from 8:00 A.M. to 5:00 P.M. (first week of the bi-week) and Monday-Friday (for second week of the bi-week).

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor **Wellington Chin**, can be reach on **(571) 272-3134**. The fax phone number for this group is **(571) 273-8300**.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Bob A. Phunkulh
Primary Examiner
TC 2600

*Technology Division 2616
March 06, 2007*

**BOB PHUNKULH
PRIMARY EXAMINER**